

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JANA ROMANOVA,

Plaintiff,

- against -

VICE MEDIA LLC

Defendant.

Docket No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Jana Romanova (“Romanova” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Vice Media LLC, (“Vice” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act and for the removal and/or alteration of copyright management information under Section 1202(b) of the Digital Millennium Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a young couple in bed as part of her 40 photos to represent 40 weeks of pregnancy project owned and registered by Romanova, a Saint-Petersburg, Russia based award-winning photojournalist. Accordingly, Romanova seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are transacting business in New York and is registered to do business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Romanova is an award winning professional documentary photojournalist having a usual place of business at Nastavnikov pr., 15-5-210, Saint-Petersburg, Russia, 195298. Romanova's projects were selected for a number of international exhibitions and festivals such as the Moscow Photobiennale 2016 in Russia, Encontros da Imagem in Portugal, the Backlight Festival in Finaland, Encuentros Abiertos Festival in Argentina, the "Perchance to Dream" at Andrea Meislin Gallery in New York, and the "New Saint Petersburg" in Nieuw Dakota Gallery in the Netherlands.

6. Upon information and belief, Vice is a foreign limited liability corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 49 South Second Street, Brooklyn, New York 11249. Upon information and belief, Vice is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Vice has operated and continues to operate a website at the URL: www.Vice.com and their Facebook page, <https://www.facebook.com/VICE/> (the "Websites").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Romanova embarked on a project photographing sleeping parents to be in Russia as part of a project called "Waiting". The project was showcased in exhibitions worldwide and in a photobook being sold worldwide.

8. One of the photographs captures a couple sleeping in a red and blue plaid blanket (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

9. Romanova then licensed the Photograph to The Russian Reporter. On February 4, 2010, The Russian Reporter ran an article that featured the Photograph on its web edition. See http://expert.ru/russian_reporter/2010/04/troe/media/38238/#anchor-1. Romanova’s name was featured in a gutter credit identifying her as the photographer of the Photograph. A true and correct copy of the Photograph in the article is attached hereto as Exhibit B.

10. Romanova is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

11. The Photograph has a pending US Copyright Registration number of 1-4169718051.

B. Defendant’s Infringing Activities

12. Upon information and belief, in October 2016, Vice ran an article on the Website entitled *What It’s Like to Be a Millennial in A Sexless Relationship*. See http://www.vice.com/en_uk/read/millennials-not-having-sex-in-relationships. The article prominently featured the Photograph. In addition, Vice shared the Photograph on their Facebook Page <https://www.facebook.com/VICE> which was then reposted to hundreds of other people. A true and correct copy of the Photograph in the article is attached hereto as Exhibit C.

13. Vice did not license the Photograph from Plaintiff for its article, nor did Vice have Plaintiff’s permission or consent to publish the Photograph on the Websites.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST VICE)
(17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

15. Vice infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites. Vice is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Vice have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

18. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

19. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

SECOND CLAIM FOR RELIEF
INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST VICE
(17 U.S.C. § 1202)

20. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-19 above.

21. When the Photograph was published in an article in The Russian Reporter, the article contained copyright management information under 17 U.S.C. § 1202(b).

22. Upon information and belief, Vice copied the Photograph from The Russian Reporter, and Vice intentionally and knowingly removed copyright management information identifying Plaintiff as the photographer of the Photograph.

23. The conduct of Vice violates 17 U.S.C. § 1202(b).

24. Upon information and belief, Vice's falsification, removal and/or alteration of the aforementioned copyright management information was made without the knowledge or consent of Plaintiff.

25. Upon information and belief, the falsification, alteration and/or removal of said copyright management information was made by Vice intentionally, knowingly and with the intent to induce, enable, facilitate, or conceal their infringement of Plaintiff's copyrights in the Photograph. Vice also knew, or should have known, that such falsification, alteration and/or removal of said copyright management information would induce, enable, facilitate, or conceal their infringement of Plaintiff's copyrights in the Photograph.

26. As a result of the wrongful conduct of Vice as alleged herein, Plaintiff is entitled to recover from Vice the damages, that she sustained and will sustain, and any gains, profits and advantages obtained by Vice because of their violations of 17 U.S.C. § 1202, including attorney's fees and costs.

27. Alternatively, Plaintiff may elect to recover from Vice statutory damages pursuant to 17 U.S.C. § 1203(c) (3) in a sum of at least \$2,500 up to \$25,000 for each violation of 17 U.S.C. § 1202.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Vice be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. The Defendant Vice be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.
3. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
4. That, with regard to the Second Claim for Relief, Plaintiff be awarded either:
 - a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's falsification, removal and/or alteration of copyright management information; or b) alternatively, statutory damages of at least \$2,500 and up to \$ 25,000 for each instance of false copyright management information and/or removal or alteration of copyright management information committed by Defendant pursuant to 17 U.S.C. § 1203(c);
5. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
6. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);
7. That Plaintiff be awarded pre-judgment interest; and
8. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
November 24, 2016

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